



State of Wisconsin • DEPARTMENT OF REVENUE

2135 RIMROCK ROAD • Mail Stop 624A • P.O. BOX 8933 • MADISON, WISCONSIN 53708-8933 • 608-266-6466 • FAX (608) 266-5718
<http://www.revenue.wi.gov>

Scott Walker
Governor

Richard G. Chandler
Secretary of Revenue

January 12, 2011

The Honorable Jerry Petrowski
State Representative
Room 11 West, State Capitol
Madison, WI 53708

Dear Representative Petrowski:

I am writing to respond to your questions related to the relocation credit created in Special Session Assembly Bill 3 [LRB 0755/2]. Your first question related to the ability of farmers to claim the relocation credit. Under the bill, qualifying individuals who relocate to the state engaged in farming activities could claim the credit. Your concern related to language in Section 13 of the bill that amended s. 77.92(4). This section of the statutes relates to the definition of "net business income" for purposes of the recycling surcharge.

Under current law, "net business income" for purposes of the recycling surcharge does not include income from farming. The amendment to this section in the bill makes no change to the treatment of farming for purposes of the recycling surcharge, nor does it restrict the credit to non-farm businesses. The amendment is intended only to include the new credit in the definition of "net business income" for purposes of the recycling surcharge, thereby treating the new credit the same as other credits.

Your second question related to the whether credit claimants could be subject to alternative minimum tax liability, thereby diluting the benefit of the proposed credit. You are correct that depending on the order of credits, some credits could be offset by an increase in alternative minimum tax liability. Under the bill, the computation of the alternative minimum tax would not consider the relocation credit. In other words, the proposed credit would not give rise to any increase in alternative minimum tax liability.

It should be noted that our proposed change to the bill would replace the credit for individuals with a tax deduction. Since deductions do not affect alternative minimum tax liability, there is no potential for an increase in alternative minimum tax liability for affected taxpayers.

I hope this answers your concerns related to the bill. Please contact me if I can provide any further assistance.

Sincerely,

Richard G. Chandler
Secretary of Revenue

cc: Members, Assembly Rural, Economic Development
and Rural Affairs Committee



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

January 18, 2011

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: January 2011 Special Session Assembly Bill 3 and Special Session Senate Bill 3:
Individual Income and Corporate Income/Franchise Tax -- Relocated Business Tax
Credit

January 2011 Special Session Assembly Bill 3 and Senate Bill 3 are companion bills that would provide a tax credit for businesses that relocated from another state to Wisconsin. SS AB 3 was introduced on January 4, 2011, and referred to the Assembly Committee on Rural Economic Development and Rural Affairs. On January 13, 2011, Assembly Amendment 1 to SS AB 3 was adopted by a vote of 15 to 0, and SS AB 3, as amended, was recommended for passage by a vote of 14 to 1. SS SB 3 was introduced on January 5, 2011, and referred to the Senate Committee on Workforce Development, Small Business, and Tourism. On January 13, 2011, Senate Amendment 1 to SS SB 3 was adopted, and SS SB 3, as amended, was recommended for passage by a vote of 5 to 0.

BACKGROUND

Generally, corporations and pass-through entity businesses, including partnerships, tax-option corporations (S corporations) and limited liability companies (LLCs) are subject to the state individual income or corporate income/franchise tax if they are conducting a trade or business in Wisconsin. There are two circumstances which give Wisconsin taxing jurisdiction (nexus) over corporations. First, corporations which are created and authorized to act in a corporate capacity (incorporated) under Wisconsin law or foreign corporations which are licensed to transact business in the state are subject to the Wisconsin corporate income/franchise tax. Second, corporations which are organized under the laws of other states or foreign nations are generally subject to the Wisconsin corporate income/franchise tax if they exercise a franchise, conduct business, or own property within the state.

Business income of pass-through entities is passed through to partners, shareholders and members and taxed under the individual income tax. All income or loss of residents is taxable in Wisconsin. Business income or loss for nonresidents is assigned to the situs (location) of the business. Therefore, if the situs of a pass-through entity business is Wisconsin, the partners, shareholders or members are subject the Wisconsin income tax.

Under provisions included in 2009 Wisconsin Act 2, corporations that are members of a combined group must file a combined income/franchise tax return. For a combined group, nexus is determined for the unitary business as a whole. Therefore, if a member of a combined group has nexus with Wisconsin and that nexus is attributable to the combined group's unitary business, all members of the combined group have nexus in Wisconsin. Pass-through entities that are members of a unitary combined group, including partnerships, LLCs, and tax-option corporations are not included in the combined report. However, the income of these entities that is derived from the group's unitary business is included in the combined unitary income of the group to the extent it is included in or distributed to a corporation that is a group member.

SUMMARY OF BILLS

SS AB 3 and SS SB 3 would create a relocated business tax credit, under the state individual income and corporate income and franchise taxes, for tax years beginning after December 31, 2010. The tax credit could be claimed by a business that located in Wisconsin from another state and began operations in the state, and would equal the amount of the claimant's state individual income or corporate income/franchise tax liability after applying all other allowable tax credits, deductions, and exclusions. The tax credit could be claimed for two consecutive tax years, beginning with the tax year the business began operations in Wisconsin. A person could not claim the tax credit if that person had done business in Wisconsin during any of the ten tax years preceding the tax year for which the person would otherwise be eligible for the tax credit.

Partnerships, LLCs, and tax-option corporations could not claim the credit, but the eligibility for and amount of the credit would be based on the amount of the entity's taxes. The partnership, LLC, or tax-option corporation would be required to compute the amount of credit each of its partners, members, or shareholders could claim, and provide that information to them. Partners, members of LLCs, and tax-option corporation shareholders could claim the credit in proportion to their ownership interests. The statutory provision in the bill specifies that the tax credit would be based on a pass-through entity's payment of tax amounts. However, the tax credit would eliminate any required tax payments. An amendment is needed to clarify that the tax credit would be based on the amount of the claimant's tax liability.

The Department of Revenue would administer the tax credit, and current law provisions related to timely claims, change of business and ownership, and ineligible claimants would apply. The bill also cross references a current law provision that would provide a 15 year carryforward of unused tax credit amounts. Since the credit would equal the claimant's tax liability net of all other allowable deductions, credits, and exclusions, there would not be unused credits. An amendment is

necessary to eliminate the statutory cross-reference to the carryforward provision.

The bills also include a nonstatutory provision specifying that the general fund statutory reserve requirement (\$65 million in 2010-11 and the 2011-13 biennium) does not apply to the action of the Legislature in enacting the bills.

SUMMARY OF ASSEMBLY AMENDMENT 1 AND SENATE AMENDMENT 1

AA 1 to SS AB 3 and SA 1 to SS SB 3 would delete the statutory cross-reference that would provide a 15 year carryforward for unused credit amounts. As noted, because the credit would equal the claimant's tax liability, there would be no unused credit amounts.

FISCAL EFFECT

As noted, the bills would create a relocated business tax credit, under the state individual income and corporate income/franchise taxes for a business that relocated operations to Wisconsin. Based on information compiled by the Department of Revenue from the tax returns of newly filing corporations, and for corporations that move in state (from the National Establishment Time Series database, compiled by Walls & Associates and Dunn and Bradstreet), the relocated business tax credit would reduce state individual income and corporate income/ franchise tax revenues by an estimated \$280,000 annually in 2011-12, and thereafter.

AA 1 and SA 1 to the respective bills would not have a fiscal effect.

Prepared by: Ron Shanovich

Testimony of Secretary Paul Jadin
Assembly Committee on Rural Economic Development and Rural Affairs
January 2011 Special Session Assembly Bill 3
January 11, 2011

Thank you Chairman Ott and committee members. I appreciate the opportunity to speak to you today.

Your willingness to hold a prompt hearing on this legislation demonstrates your shared commitment with Governor Walker to address the need to implement aggressive job creation efforts on an expedited timeline.

As the appointed Secretary of the state agency responsible for fostering economic development and job creation, I am appearing today in support of Special Session Assembly Bill 3.

As you know, AB 3 creates a new tax credit that is designed to improve Wisconsin's competitive standing to businesses and industries looking at alternative sites for their company operations. This legislation would provide a relocation tax credit for up to two years upon commencing operations in Wisconsin from another state.

The urgent need for jobs in our state demands aggressive strategies. While we will continue to nurture and support the expansion and start-up efforts of homegrown Wisconsin businesses, we should not ignore opportunities to attract out-of-state businesses looking for the types of incentives presented in Assembly Bill 3.

Both the Walker Administration and the Legislature, and members of both parties, have stressed that our most pressing policy-making focus must be on job creation. In the series of bills that comprise the special session package, the legislation before you today is a key initiative that will spur job growth in the near term. As the state and nation look to a long-term economic recovery, we need to position Wisconsin to take maximum advantage of those opportunities to improve the climate for job growth.

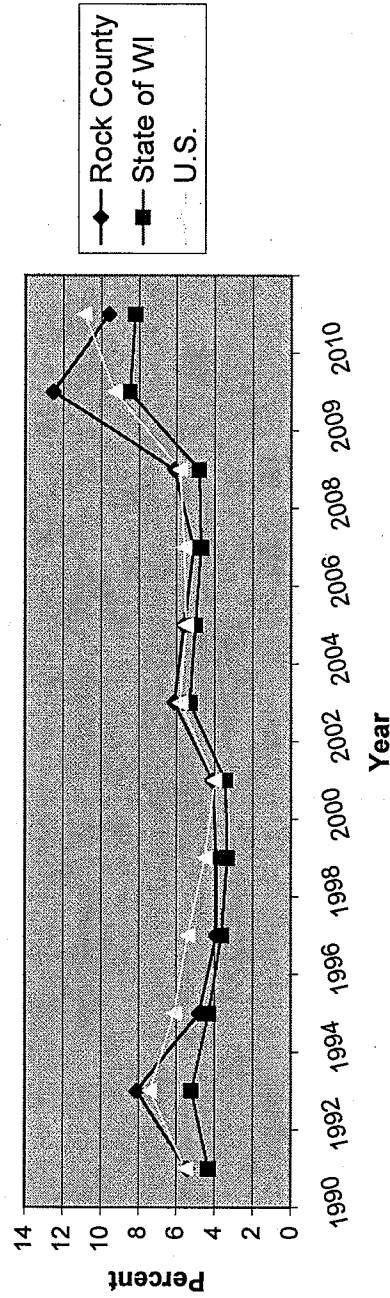
Again, thank you for your consideration. I look forward to your continued progress on this bill, and will be glad to respond to any comments or questions at this time.

Annual Unemployment Rates
1990-2010

Location	1990	1992	1994	1996	1998	2000	2002	2004	2006	2008	2009	2010
Rock Co.	5.4	8.1	4.8	3.9	3.9	4.1	6.1	5.6	5.1	6.1	12.5	9.6
WI	4.3	5.2	4.3	3.6	3.3	3.4	5.3	5.0	4.7	4.8	8.5	8.2
US	5.5	7.4	6.1	5.4	4.5	4.0	5.8	5.5	5.6	5.8	9.3	10.9

NOTE: Nov. 2010

Historical Unemployment Rates



- Good afternoon Mr. Chair and Committee Members. Thank you for the opportunity to testify before you, today, on Special Session Assembly Bill 3.
- Just over two years ago, on January 2nd, 2009 the State Department of Revenue released a report stating that Wisconsin's economy had officially entered into a recession, something nearly every Wisconsin resident had already felt in their own household budget.
- During this recession, personal income growth has slowed and state unemployment has risen dramatically. Quite simply, we have all witnessed the impact the recession has had on Wisconsin's economy as our state has lost more than 180,000 jobs since the recession began.
- As most of you may know I represent the 44th district in Rock County, and more specifically, Janesville. In 2008 the unemployment rate in Janesville was 6.1%. Today, the Unemployment rate in Janesville is nearly 10%. (9.6%) The 10% unemployment rate does not even begin to account for the thousands of residents that have left the area to search for new jobs and economic opportunities. Obviously, this double digit unemployment rate is largely in part due to The General Motors plant closing in Janesville and taking 2,600 jobs with it. My job as a supervisor and as a Union Worker at GM being one of them.
- The past election cycle was about one issue...fixing Wisconsin's economy and getting our citizens back to work. One way we can do that is by passing Special Session Assembly Bill 3, which implements a relocated business tax credit for businesses that moved to Wisconsin from another state. The credit would be equal to the amount that the

business's state individual income tax or corporate income tax, and it could be claimed for two consecutive years.

- With Wisconsin's Unemployment rate still at 7.6%, now is the time to give the Department of Commerce every possible tool to bring businesses and jobs to Wisconsin.
- This is an issue that I have a personal passion for. I am a witness to how a large company closing their doors can impact every aspect of the local economy. When GM closed in Janesville it impacted every business from; suppliers, to vendors, to restaurants, to gas stations, to every aspect of the service industry economy in my community.
- This is why it is so important to give the State and Local economy the tools it needs to develop a prosperous Wisconsin.
- This Bill is a practical solution to bring jobs back to my District and fulfilling Governor Walker's promise to bring jobs to Wisconsin. Assembly Bill 3 is actual proof that we in Madison are serious about bring jobs to Wisconsin and that **WISCONSIN IS OPEN FOR BUSINESS.**
- Throughout Janesville and Wisconsin, as a whole, we have the infrastructure and the skilled and trained workforce that employers desire...now is the time to offer the incentive to locate in our great state because while IL, IA, and MN are debating raising their taxes in 2011, Wisconsin will be offering a two year tax holiday, which will make Wisconsin an even more attractive state to move your business to.
- Thank you for your time.